

## **Exhibit D**

12/15/05 THU 17:33 FAX 310 557 1540

KLEINBERG & LERNER, LLP

002

Patent, Trademark Copyright  
Unfair Competition & Related  
Intellectual Property Matters

Michael Hurley  
Extension 3011

LAW OFFICES OF  
KLEINBERG & LERNER, LLP  
2049 CENTURY PARK EAST, SUITE 1080  
LOS ANGELES, CALIFORNIA 90067-3112  
TELEPHONE (310) 557-1511  
FACSIMILE (310) 557-1540  
www.kleinberglerner.com

WRITER'S EMAIL:  
mhurley@kleinberglerner.com

December 15, 2005

**VIA FACSIMILE**

*Confirmation copy via Federal Express*

Harry Gera  
Perfume Network, Inc.  
70 Gordon Drive  
Syosset, NY 11791

Re: Jivago Trademark  
Our Docket No. 458017.16389

Dear Mr. Gera:

My firm represents Jivago, Inc. ("Jivago") of Beverly Hills, California in connection with its intellectual property matters, including trademarks. Jivago is the owner of the trademark JIVAGO for use in connection with cosmetics, namely men's and women's perfume. Jivago has registered its trademarks in the United States and throughout the world.

Jivago has learned that Perfume Network, Inc. has imported and offered for sale 30,528 bottles of perfume bearing counterfeit JIVAGO trademarks. These products were impounded and seized by the U.S. Customs and Border Protection Service as they were entering the United States. The items that your firm imported are unauthorized counterfeits and were made without our client's consent. Jivago has not agreed to permit you to sell such products or otherwise use its trademark. Your importation and sale of these counterfeit products constitutes trademark infringement and has caused substantial damage to Jivago. See 15 U.S.C. §§ 1114(1), 1125(a)(1)(A), 1124; and 19 U.S.C. § 1526(a). Mr. Gera is personally responsible for the damages caused to Jivago, because of his capacity as a central figure in the corporation and who authorized and approved the acts found to be an infringement. See, *Polo Fashions, Inc. v. Craftex, Inc.*, 816 F.2d 145.

We hereby demand, on behalf of our client, that Perfume Network and Mr. Gera immediately take the following steps to remedy this matter: (1) agree to cease and desist from any future infringements of the JIVAGO mark and any other trademark owned by Jivago, (2) stipulate to the entry of a permanent injunction by the United States District Court for the Central District of California prohibiting future infringements; (3) provide to my firm the names, addresses, telephone numbers and any other relevant information relating to all persons

PN 004796

12/15/05 THU 17:33 FAX 310 557 1540

KLEINBERG & LERNER, LLP

003

**KLEINBERG & LERNER, LLP**

Harry Gera  
Perfume Network, Inc.  
December 15, 2005  
Page 2

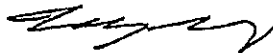
and parties involved in the scheme to manufacture, import and distribute counterfeit JIVAGO products; (4) provide full, complete and unfettered cooperation to Jivago in its investigation of this matter (including, but not limited to, providing documents and testimony deemed necessary by Jivago); (5) account to Jivago for the profits that Perfume Network has received as a result of its infringement, and (6) reimburse our client for its legal fees and costs incurred in connection with this matter, in an amount to be determined.

Please have an appropriate representative of Perfume Network contact me within the next five (5) days to confirm your company's intention to comply with our client's demands. It is our hope that we will be able to resolve this matter quickly. If, however, you are not willing to respect our client's rights, then Jivago is prepared to take whatever steps are necessary to enforce its trademark and protect its reputation and goodwill. Such steps could include, for example, a lawsuit in Federal District Court for trademark infringement, unfair competition and violations of the Lanham Act, without further notice to you. Jivago would seek all remedies available to it in such a lawsuit, including attorneys fees, punitive and treble damages.

I look forward to your prompt response.

Sincerely,

KLEINBERG & LERNER, LLP



Michael Hurey

PN 004797

ECF

**U.S. District Court  
United States District Court for the Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:06-cv-14428-SAS**

Jivago, Inc. v. Perfume Network, Inc. et al  
Assigned to: Judge Shira A. Scheindlin  
Cause: 15:1114 Trademark Infringement

Date Filed: 12/13/2006  
Jury Demand: Plaintiff  
Nature of Suit: 840 Trademark  
Jurisdiction: Federal Question

**Plaintiff**

**Jivago, Inc.**

represented by **Bernard Malina**  
Malina & Associates, P.C.  
60 East 42nd Street  
Suite 501  
New York, NY 10165  
(212) 986-7410  
Fax: (212) 983-8421  
Email: bmalina@malinalaw.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Perfume Network, Inc.**  
*a New York Corporation*

represented by **Stanley Richard Goodman**  
Goodman & Saperstein  
600 Old Country Road, Suite 333  
Garden City, NY 11530  
(516)-227-2100  
Fax: (516)-228-8120  
Email: gsesq600@aol.com  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Harry Gera**  
*an individual*

represented by **Stanley Richard Goodman**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Saint-Gobain Desjon-Queres, Inc.**  
*a Delaware Corporation*

represented by **Brian W. Nolan**  
Morgan, Lewis and Bockius LLP (NY)  
101 Park Avenue  
New York, NY 10178  
212-309-6000  
Fax: 212-309-6273  
Email: bnolan@mwe.com  
**LEAD ATTORNEY**

*ATTORNEY TO BE NOTICED*

**Counter Claimant**

**Saint-Gobain Desjon-Queres, Inc.**  
a Delaware Corporation

represented by **Brian W. Nolan**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Counter Defendant**

**Jivago, Inc.**

represented by **Bernard Malina**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
12/13/2006	<u>1</u>	COMPLAINT against Perfume Network, Inc., Harry Gera, Saint-Gobain Desjon-Queres, Inc. (Filing Fee \$ 350.00, Receipt Number 600143)Document filed by Jivago, Inc.(jar, ) (Entered: 12/14/2006)
12/13/2006		SUMMONS ISSUED as to Perfume Network, Inc., Harry Gera, Saint-Gobain Desjon-Queres, Inc. (jar, ) (Entered: 12/14/2006)
12/13/2006		Magistrate Judge Ronald L. Ellis is so designated. (jar, ) (Entered: 12/14/2006)
12/13/2006		Case Designated ECF. (jar, ) (Entered: 12/14/2006)
12/13/2006	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Jivago, Inc.(jar, ) (Entered: 12/14/2006)
12/13/2006		Mailed notice to Commissioner of Patents and Trademarks to report the filing of this action. (jar, ) (Entered: 12/14/2006)
01/31/2007	<u>3</u>	AFFIDAVIT OF SERVICE. Perfume Network, Inc. served on 1/18/2007, answer due 2/7/2007. Service was accepted by Harry Gera, Managing Agent. Document filed by Jivago, Inc.. (Malina, Bernard) (Entered: 01/31/2007)
01/31/2007	<u>4</u>	AFFIDAVIT OF SERVICE. Harry Gera served on 1/18/2007, answer due 2/7/2007. Service was accepted by Harry Gera, Managing Agent. Document filed by Jivago, Inc.. (Malina, Bernard) (Entered: 01/31/2007)
02/22/2007	<u>5</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Perfume Network, Inc..(Goodman, Stanley) (Entered: 02/22/2007)
02/22/2007	<u>6</u>	ANSWER to Complaint. Document filed by Perfume Network, Inc..(Goodman, Stanley) (Entered: 02/22/2007)
02/22/2007	<u>7</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Harry Gera.(Goodman, Stanley) (Entered: 02/22/2007)
02/22/2007	<u>8</u>	ANSWER to Complaint. Document filed by Harry Gera.(Goodman, Stanley) (Entered: 02/22/2007)

03/01/2007	<u>9</u>	AFFIDAVIT OF SERVICE. Saint-Gobain Desjon-Queres, Inc. served on 2/12/2007, answer due 3/5/2007. Service was accepted by Carol Vogt, Authorized Agent. Document filed by Jivago, Inc.. (Malina, Bernard) (Entered: 03/01/2007)
03/02/2007	<u>10</u>	NOTICE OF APPEARANCE by Brian W. Nolan on behalf of Saint-Gobain Desjon-Queres, Inc. (Nolan, Brian) (Entered: 03/02/2007)
03/02/2007	<u>11</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Saint-Gobain Desjonqueres, S.A. (a French Company) which is an indirect, wholly-owned subsidiary of Compagnie de Saint-Gobain, Paris, France, a publicly-held company as Corporate Parent. Document filed by Saint-Gobain Desjon-Queres, Inc..(Nolan, Brian) (Entered: 03/02/2007)
03/07/2007	<u>12</u>	STIPULATION AND ORDER Extending Defendant's Time to File its Answer, Saint-Gobain Desjon-Queres, Inc. answer due 3/7/2007. (Signed by Judge Shira A. Scheindlin on 3/6/2007) (jmi) (Entered: 03/08/2007)
03/19/2007	<u>14</u>	STIPULATION AND ORDER ALLOWING SAINT-GOBAIN DESJONQUERES NORTH AMERICA. INC. TO INTERVENE INTO THIS ACTION: On or about December 14, 2005, Saint Gobain Desjonqueres. Inc. filed with the state of Delaware a certificate of Merger, which merged Saint Gobain Desjonqueres Inc. a Delaware Corporation. With and into Saint Gobain Desjonqueres Manufacturing under the name of Saint Saint Gobain Desjonqueres North America. Inc. a Corporation organized and existing under the laws of the State of Delaware. The Certificate of merger had an effective date of December 31, 2005. The State of New York designates Saint Gobain Desjonqueres. Inc.'s entity status as inactive. Pursuant to federal Rules of Civil procedure 24(b). Saint Gobain Desjonqueres North America Inc. may intervene into this action. (Signed by Judge Shira A. Scheindlin on 3/19/07) (js) (Entered: 03/20/2007)
03/20/2007	<u>13</u>	ANSWER to Complaint., COUNTERCLAIM against Jivago, Inc.. Document filed by Saint-Gobain Desjon-Queres, Inc..(Nolan, Brian) (Entered: 03/20/2007)

PACER Service Center			
Transaction Receipt			
04/05/2007 13:40:35			
PACER Login:	gt1329	Client Code:	
Description:	Docket Report	Search Criteria:	1:06-cv-14428-SAS
Billable Pages:	2	Cost:	0.16